

INITIATIVE PETITION

WE THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following proposed law be submitted to the voters of South Dakota at the general election on November 4, 2008 for their approval or rejection pursuant to the Constitution of the State of South Dakota. The substance of the proposed law is as follows:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF SOUTH DAKOTA: FOR AN ACT ENTITLED, An Act to increase the tax on alcoholic beverages, to dedicate the revenue from such tax increase, to create the South Dakota Teen Court Commission, and to create the South Dakota Commission on Equal Access to Our Courts.

Section 1. That chapter 35-5 be amended by adding thereto a NEW SECTION to read as follows:

In addition to the tax imposed by § 35-5-3, a tax is imposed on wholesalers and manufacturers of alcoholic beverages, including farm wineries licensed pursuant to chapter 35-12 and artisan distillers licensed pursuant to chapter 35-13, based upon the quantities of alcoholic beverages purchased, received, imported, or manufactured, as follows:

(1) Malt beverages, one dollar and six cents per gallon or pro rata portion thereof;

(2) All wines, ciders, and diluted beverages, two dollars and fifty-six cents per gallon or pro rata portion thereof; and

(3) All other alcoholic beverages not otherwise specified, eight dollars and fifty-four cents per gallon or pro rata portion thereof. The term, diluted beverage, has the same meaning as provided in § 35-5-3. The tax imposed by this section shall be administered and collected in the same manner as provided in this chapter for the collection of the occupational tax.

Section 2. That chapter 35-5 be amended by adding thereto a NEW SECTION to read as follows:

There is hereby created in the state treasury the alcohol abuse fund. The secretary shall deposit the revenue from the tax imposed by section 1 of this Act into the alcohol abuse fund.

Section 3. That chapter 35-5 be amended by adding thereto a NEW SECTION to read as follows:

The Department of Revenue and Regulation shall distribute the revenue in the alcohol abuse fund not later than November first, February first, May first, and August first of each year as follows:

(1) Sixty-two percent of the revenue to the counties. The share of each county shall be determined by the average value of the ratio of the population of such county to the total population of all of the counties and the ratio of the taxable value of such county to the total taxable value of all of the counties;

(2) Fifteen percent of the revenue to the municipalities. The share of each municipality shall be determined by the ratio of the population of such municipality to the total population of all the municipalities;

(3) Seven percent of the revenue to the Department of Social Services to defray costs incurred by the state in monitoring the 24/7 sobriety program and abuse and neglect cases where alcohol abuse was present in the home;

(4) Six percent of the revenue to the 24/7 sobriety fund established pursuant to § 1-11-18, and the balance, if any, to the attorney general's law enforcement officers training fund and disbursed pursuant to § 23-3-55;

(5) Five percent of the revenue to the teen court program fund established pursuant to section 7 of this Act;

(6) Two percent of the revenue to the South Dakota Division of Drug and Alcohol Abuse which may accept money pursuant to § 34-20A-18; and

(7) Three percent of the revenue shall be distributed to nonprofit corporations funded through the Legal Services Corporation or contracting with the nonprofit corporations funded through the Legal Services Corporation, to provide legal assistance to eligible poor persons. The funds provided by this subdivision shall be distributed by the South Dakota Commission on Equal Access to Our Courts as established pursuant to section 12 of this Act.

Section 4. That § 35-5-3.2 be amended to read as follows:

35-5-3.2. In addition to the provisions of § 35-4-49, a malt beverage manufacturer may sell the malt beverage ~~such that the manufacturer manufactures to the public for consumption on the licensed premises.~~ A malt beverage manufacturer who manufactures less than five thousand barrels of malt beverage a year may hold on the premises where the malt beverage is manufactured an on-sale license issued pursuant to subdivision 35-4-2(4) and subject to the quota established in § 35-4-11 or a malt beverage retailer's license issued pursuant to subdivision 35-4-2(16) or an on-sale wine license issued pursuant to subdivision 35-4-2(12). The manufacturer shall pay the tax imposed under subdivision 35-5-3(1) and section 1 of this Act on all malt beverages so sold. Any manufacturer who holds a malt beverage retailer's license as provided in this section may also hold a malt beverage retailer's license at other locations but may sell the malt beverages it manufactures only at the location where the beverages are manufactured or to wholesalers licensed pursuant to this title.

Section 5. That § 35-5-3.3 be amended to read as follows:

35-5-3.3. A malt beverage manufacturer who possesses an on-sale license

authorized pursuant to § 35-5-3.2 may be issued a malt beverage package dealer's license issued pursuant to subdivision 35-4-2(17) for ~~each the~~ premises where the malt beverage is manufactured, limited to the sale of malt beverages the manufacturer manufactures. The manufacturer shall pay the tax imposed under subdivision 35-5-3(1) and section 1 of this Act on all malt beverages so sold.

Section 6. That § 35-12A-1 be amended to read as follows:

35-12A-1. Notwithstanding any other provision of law, any person who is at least twenty-one years of age may purchase and receive wine from another state as provided in this section if the wine is not in distribution in this state and the wine comes from a winery that is located in a state that affords South Dakota wineries an equal reciprocal shipping privilege, or a winery located in South Dakota. The person shall place an order with a licensee as defined in subdivision 35-4-2(3) or (5). The licensee shall order the wine through a wholesaler licensed pursuant to subdivision 35-4-2(2) and the wholesaler shall arrange the purchase of wine. The licensee shall inform the purchaser of the cost of the wine, the amount of any tax that would apply to the purchase pursuant to § 35-5-3 and section 1 of this Act, the amount of sales tax that would apply, and the amount of charges for freight and handling. The licensee shall collect the total amount due from the customer before ordering the wine through the wholesaler. After receiving the order for the wine from the licensed retailer the wholesaler shall arrange for the wine to be shipped directly to the licensee who placed the order for the purchaser. Wine purchased pursuant to this chapter may only be delivered and received by the purchaser from a licensee as defined in subdivision 35-4-2(3) or (5).

Section 7. That chapter 1-10 be amended by adding thereto a NEW SECTION to read as follows:

The teen court program fund is hereby established in the Office of the State Treasurer. The purpose of the program is to support the development, growth, quality, and continuation of teen court programs in South Dakota.

Section 8. That chapter 1-10 be amended by adding thereto a NEW SECTION to read as follows:

There is hereby created the South Dakota Teen Court Commission. The commission shall consist of seven members appointed as follows:

(1) Three members appointed by the Governor, one initially appointed for a term of one year, one initially appointed for a term of two years, and one for a term of three years as designated by the Governor;

(2) Two members appointed by the Chief Justice of the Supreme Court, one initially appointed for a term of two years and one for a term of three years as designated by the Chief Justice; and

(3) Two members appointed by the president of the State Bar of South Dakota, one initially appointed for a term of one year and one for a term of three years as designated by the president.

Thereafter, each appointment shall be for a term of three years, beginning on the first day of July.

Section 9. That chapter 1-10 be amended by adding thereto a NEW SECTION to read as follows:

The South Dakota Teen Court Commission shall consider grant applications for creating new teen court programs, maintaining existing teen court programs, funding the South Dakota Teen Court Association, and awarding other grants as are consistent with the promotion, development, and enhancement of teen court programs.

Section 10. That chapter 1-10 be amended by adding thereto a NEW SECTION to read as follows:

The South Dakota Teen Court Commission shall award grants as provided in sections 7 to 9, inclusive, of this Act and publicize the availability of and procedures for obtaining such grants.

Section 11. That chapter 1-10 be amended by adding thereto a NEW SECTION to read as follows:

The South Dakota Teen Court Commission shall submit an annual report to the state treasurer not later than October first of each year. The annual report shall detail the name and location of organizations receiving grant awards. The report shall also contain the amount and duration of the grant awards, their purpose, and the administrative costs associated with each grant award.

Section 12. There is hereby created the South Dakota Commission on Equal Access to Our Courts. The commission shall consist of seven members appointed as follows:

(1) Three members by the Governor, one initially appointed for a term of one year, one initially appointed for a term of two years, and one for a term of three years as designated by the Governor. The Governor shall appoint members who are not lawyers;

(2) Two members appointed by the Chief Justice of the Supreme Court, one initially appointed for a term of two years and one for a term of three years as designated by the Chief Justice. The Chief Justice shall appoint members who are judges or lawyers; and

(3) Two members appointed by the president of the State Bar of South Dakota, one initially appointed for a term of one year and one for a term of three years as designated by the president. The president shall appoint members who are lawyers.

Thereafter, each appointment shall be for a term of three years, beginning on the first day of July.

The commission shall consider grant applications from nonprofit entities funded by the Legal Services Corporation or by nonprofit entities contracting with nonprofit entities funded by the Legal Services Corporation for delivery of legal services to eligible poor persons.

Section 13. The effective date of this initiative shall be January 1, 2009

INSTRUCTIONS TO SIGNERS:

1. Signers of this petition must individually sign their names in the form in which they are registered to vote or as they usually sign their names.
2. Before the petition is filed, each signer or the circulator must add the residence address of the signer and the date of signing. If the signer is a resident of a second or third class municipality, a post office box may be used for the residence address.
3. Before the petition is filed, each signer or the circulator must print the name of the signer in the space provided and add the county of voter registration.
4. Abbreviations of common usage may be used. Ditto marks may not be used.
5. Failure to provide all information requested may invalidate the signature.

NAME		RESIDENCE		DATE/COUNTY	
SIGN		STREET AND NUMBER, RURAL ROUTE AND BOX NUMBER		DATE OF SIGNING	
1					
PRINT					

RECEIVED
JAN 15 2009
S.D. SEC. OF STATE
COUNTY OF REGISTRATION



South Dakota Association of

County

Commissioners

RECEIVED

JAN 15 2008

S.D. SEC. OF STATE

Hon. Chris Nelson
Secretary of State
500 E. Capitol
Pierre, SD 57501

Dear Secretary Nelson:

Attached is the original initiative petition to submit to the voters of South Dakota, a proposal to increase the tax on alcoholic beverages by approximately a dime per drink and to dedicate that dime to various entities that bear the expense of law enforcement or other programs that deal with the abuse of alcohol.

Please confirm that the petition is in proper form and complies with applicable South Dakota law.

Sincerely yours,

Bob Wilcox, Executive Director
South Dakota Association of County Commissioners